

STATEMENT OF PURPOSE

RS25166

This amendment to Title 63, Chapter 36, Idaho Code expands the section 63-3611 by adding a new term that further defines the term retailer. Since 1992, when the Supreme Court decision in Quill vs. North Dakota defined nexus, retailers have embraced technologies that removed the burdens of compliance that was identified in 1992. In 2009 the U.S. Supreme Court upheld a New York Supreme Court decision in Amazon vs. New York State Department of Taxation and Finance. The New York law required out of state retailers to collect and remit sales/use tax on sales to New York customers, if there was an affiliated nexus to New York through sales agreements and other business relationships. On February 22, 2016 in a Colorado case Direct Marketing Association vs. Barbara Brohl (Colorado) the 10th U.S. Court of Appeals upheld a Colorado Law. The case was later denied an appeal to the U.S. Supreme Court.

This bill establishes that a retailer, selling tangible personal property to Idaho customers, is engaged in business in Idaho when the out-of-state retailer generates sales of \$10,000 or more through affiliated Idaho persons. It also provides a rebuttable presumption for the retailer. The rebuttable presumption will allow a retailer, so identified, to apply for relief by presenting their rebuttable facts to the Tax Commission.

FISCAL NOTE

There are no additional appropriation requirements of the Tax Commission to implement these changes. Retailers routinely apply for sales tax permits and remit sales/use taxes on-line. There is an expected increase in volume of permits and collections within the existing business model of the Tax Commission.

There are various estimates as to the total amount of sales to out-of-state retailers, taxes on which go uncollected by the retailer and unreported by the taxpayer. While, it will not be possible to provide a reliable estimate of the revenues this bill will produce, it may be possible to monitor new out-of-state sales and use tax permits and the revenues generated by that group beginning July 1 2017, the effective date of the bill. It is recommended that additional revenues from this amendment be monitored by the Tax Commission and that no appropriation on Fiscal 2018 rely on the anticipated revenues. Any sales or use tax revenue increases would impact the General Fund and the revenue sharing with local, city, and county revenue sharing.

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DISCLAIMER: This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).